

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-161606

DATE: JUN 3 1976 ⁶⁰⁹⁴⁸ ₅₇

MATTER OF: Nathaniel A. Wilson - Real Estate Expenses ⁹⁸⁸⁶⁵

DIGEST: Civilian employee of Department of Army transferred from Seneca Army Depot, Romulus, New York, to Anniston Army Depot, Anniston, Alabama, and purchased residence in Huntsville, Alabama, to which he commutes on weekends. Since employee does not regularly commute to work from Huntsville, he may not be reimbursed for his real estate expenses in purchasing the residence in Huntsville. See B-171110, January 28, 1971.

Captain E.A. Evans, Finance and Accounting Officer at the Anniston Army Depot, Department of the Army, requests an advance decision on the propriety of paying real estate expenses in the amount of \$44.70 incurred by Mr. Nathaniel A. Wilson, incident to a permanent change of duty station.

The record shows that Mr. Wilson, a civilian employee of the Department of the Army, was issued Travel Order No. 119, dated March 27, 1974, for a permanent change of duty station from Seneca Army Depot, Romulus, New York, to Anniston Army Depot, Anniston, Alabama. Mr. Wilson purchased a residence in Huntsville, Alabama, which is approximately two hours travel time from his duty station, and he returns to his residence each weekend. The employee states that he purchased the house in Huntsville due to the availability of a job for his wife, educational opportunities for his children, and inadequate housing in Anniston. The administrative office disallowed those claims on the ground that Mr. Wilson maintained an apartment in the Anniston area from which he commuted daily to his headquarters even though he maintained a residence in Huntsville a distance of approximately 102 miles.

Section 5724a of title 5, United States Code, allows reimbursement of expenses of the purchase of a residence located at the new official station when incurred incident to transfer. In 47 Comp. Gen. 109 (1967) we stated the rule for determining allowance of such expenses as follows:

"* * * we cannot on a general basis authorize reimbursement for the cost involved in the sale of a residence which is not actually located at the employee's old duty station or at a place to which he commutes on a daily basis. See B-160898, March 10, 1967. On the other hand we believe that an exception to the daily commuting rule may be made in cases where the employee concerned cannot obtain a residence for himself and his family in a location which permits commuting to work on a daily basis. In such cases reimbursement may be made in accordance with the provisions of section 4 of Circular No. A-56 for expenses incurred in the sale of the residence in which the employee's family lives and to which he may commute on weekends."

At the time 67 Comp. Gen. 109 (1967) was issued the travel regulations applicable to Federal employees contained no definition of "official duty station." Subsequent to our decision, "official duty station" was defined and the exception was incorporated into the definition of "official duty station" which is found in the Federal Travel Regulations (FPMR 101-7) para. 2-1.4i (May 1973) and provides as follows:

"1. Official station or post of duty. The building or other place where the officer or employee regularly reports for duty. (For eligibility for change of station allowances, see 2-1.3 and 2-1.5b.) With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

A similar definition is contained in Volume 2 of the Joint Travel Regulations, para. C8350-6.

The language contained in the above-cited regulation is clear and unambiguous and authorizes reimbursement of expenses incurred in purchasing a residence at his new official duty station from which the employee regularly commutes to and from work. The record indicates that Mr. Wilson's transfer was to Anniston, Alabama, while the dwelling he purchased was in Huntsville, approximately 102 miles

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distance. Mr. Wilson occupied an apartment in Anniston and visited Huntsville on weekends. Anniston is not considered a remote area. Furthermore, it appears from the record that Mr. Wilson's purchase of a house in Huntsville was based on the social, economic, and educational exigencies confronting his family. See B-171110, dated January 28, 1971.

In view of the above, payment of the claim may not be made.

REF. KELLER

Deputy Comptroller General
of the United States